



FH
[REDACTED]

**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/173055

PRELIMINARY RECITALS

Pursuant to a petition filed March 25, 2016, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services in regard to FoodShare benefits (FS), a hearing was scheduled on April 21, 2016, at Milwaukee, Wisconsin. Petitioner failed to appear for the hearing. A dismissal order was issued by DHA on April 22, 2016 based on the Petitioner's failure to appear for the scheduled hearing. On May 19, 2016, the Petitioner requested a re-hearing. On May 27, 2016, DHA granted the Petitioner's request for a rehearing. A hearing was held on June 15, 2016.

The issue for determination is whether the agency properly determined Petitioner's FS benefits.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

||

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: [REDACTED]
Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Debra Bursinger
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.

2. On May 27, 2015, the Petitioner requested FS benefits via telephone. She reported that she was employed at [REDACTED]. The case was pended for verification of her employment. On May 28, 2015, the agency issued a Notice of Proof Needed to the Petitioner informing her that she must provide verification of her employment and income at [REDACTED]. The due date for the requested information was June 26, 2015.
3. On June 26, 2015, the agency issued a Notice of Decision to the Petitioner informing her that her application for FS benefits was denied due to failure to provide requested verifications. It further informed her that she could still be eligible if she turned in verifications within 60 days of the date of application. The notice also informed her that if she wanted to appeal this determination, she must file a request for a hearing no later than September 25, 2015 with the Division of Hearings and Appeals.
4. On September 15, 2015, the Petitioner contacted the agency to inquire whether verifications had been received. The Petitioner was advised the agency had not received any verifications.
5. On September 23, 2015, the agency received an employer statement from [REDACTED]. [REDACTED] reported the Petitioner worked 40 hours/week @ \$15.20/hour.
6. On October 2, 2015, the Petitioner contacted the agency to inquire whether verifications were received. She reported that she does not work 40 hours/week with [REDACTED], that she only works 2 hours/week. The case was pended for further verification.
7. On January 29, 2016, the Petitioner submitted a statement from [REDACTED] showing her actual wages for December and January, 2016.
8. On February 9, 2016, the agency updated the Petitioner's case based on the pay statement and income information from December, 2015.
9. On February 10, 2016, the agency issued a Notice of Decision to the Petitioner informing her that her FS application of February 9, 2016 was approved and that she would receive FS benefits of \$140 for February, 2016 and \$194/month effective March 1, 2016.

DISCUSSION

In determining eligibility for FS benefits, the agency is required to verify an applicant's employment and earned income. FS Handbook (FSH), § 1.2.4. Requests for verification must be in writing and must allow the applicant at least 10 days to supply the verification. FSH, § 1.2.1. The verification receipt date is the date the verification information is delivered to the agency. Id. The applicant has the primary responsibility for providing verification and for resolving any discrepancies or questionable information. FSH, § 1.2.1.3. For employment and earned income verification, an employer statement or pay statements from the last 30 days are acceptable forms of verification. FSH, § 1.2.4.2.

The agency may deny a FS application if verification is not received by the due date (the 10th day after requesting verification) or by the 30th day after the application was filed. FSH, § 1.2.1.2. After the denial of an application for failing to provide verification within 30 days, if the food unit provides all requested verification to the local agency during the period on or after the 31st day but no later than the 60th day from the filing date, the applicant's FS case may re-open without requiring a new application or interview. Id. However, benefits are prorated from the day the applicant completes all the required actions needed to determine eligibility. Id.

In this case, the Petitioner asserts that she did what she was required to do when [REDACTED] submitted an employment verification on September 23, 2015. The verification was not specific with regard to the hours the Petitioner worked for [REDACTED]. [REDACTED] reported that the Petitioner works up to 40 hours/week. On October 2, 2015, the Petitioner contacted the agency and disputed the information provided by [REDACTED]. It was not until January 29, 2016 that the Petitioner submitted verification of her actual wages.

The Petitioner submitted verification of her earned income well beyond the 60th day from her May 27, 2015 application. In order to obtain FS benefits, she needed to also file a new FS application. She did this on February 9, 2016. The agency was then able to use the wage information she submitted on January 29, 2016 to determine her eligibility for FS. In accordance with the FS regulations, she was eligible for benefits beginning February 9, 2016 when an application and all verifications were completed. Based on the evidence presented, I conclude the agency properly determined the Petitioner's FS benefits.

CONCLUSIONS OF LAW

The agency properly determined the Petitioner's FS benefits.

THEREFORE, it is

ORDERED

That the Petitioner's appeal is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

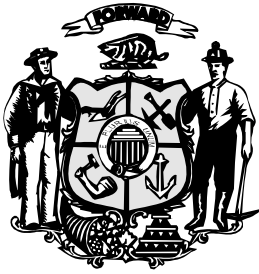
APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,
Wisconsin, this 29th day of June, 2016

\sDebra Bursinger
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on June 29, 2016.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability